IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.19 of 2005

Mrs.Vidula R. Musale .. Appellant

vs.

Rajesh S. Musale .. Respondent.

Mr. Sudhir Hardikar for the Appellant.

Mr.S.V. Gavande for the Respondent.

CORAM : A.S.OKA, J.

DATED : 12th April, 2005.

P.C. :

1. Heard Advocates appearing for the parties. The applicant is the wife and the Respondent is the husband. The Applicant is the resident of Kulgaon, Badlapur in Thane District and the Respondent husband is the resident of Karjat in district Raigad.

2. An Application is made by the Respondent in the Court of District Judge, Raigad at Alibag under the Hindu Minority and Guardianship Act, 1956 read with the provisions of Guardians and Wards Act. In the said application prayer is for grant of custody of minor son Viraj.

3. By this application, the Applicant is seeking transfer of the said application to the Court of the learned Additional District Judge at Kalyan, Distict Thane.

4. The case of the Applicant is that she is residing at Kulgaon, Badlapur in district Thane alongwith her son Viraj aged about 9 years and a daughter aged about 3 1/2 years. The case made out in the application is that it is very difficult for her to attend the Court at Alibag. The Applicant has stated that the Respondent is serving in Tata power Company and is earning handsome salary of more than Rs.12,000/- per month. The learned Advocate appearing for the Applicant has invited my attention to the relevant averments made in the application and submitted that as the Respondent is staying at Karjat, it will be also convenient for the Respondent to attend the Court at Kalyan as suburban local trains are available from Karjat to Kalyan.

5. The application is opposed by the learned Advocate appearing for the Respondent. He submitted that the applicant can apply for exemption from personal appearance and only on the dates fixed for

hearing she can attend the Court at Alibag.

6. I have considered the rival submissions. The application made by the Respondent is for the custody of minor child. Therefore, even the presence of minor child in the Court may be necessary. The applicant is staying at Kulgaon alongwith the minor son and daughter aged only 3 1/2 years. It is therefore obviously inconvenient for the applicant to undertake travelling upto Alibag in District Raigad. Therefore, a case for transfer is made out.

7. The Application No.1 of 2002 filed by the Respondent which is pending in the District Court Raigad, at Alibag, is transferred to the Court of the learned Additional District Judge at Kalyan.

3. After receiving the record and proceedings, the learned Additional District Judge at Kalyan will issue notice of the date fixed for hearing to both the parties.

. No order as to cost.

. Parties and the concerned Court to act on

the authenticated copy of this order.

(A.S.Oka, J.)